

U.S. Patent Application. No. 09/829,573
Reply to Office Action dated February 06, 2006

PATENT
450100-03152

REMARKS/ARGUMENTS

Reconsideration and withdrawal of the rejections of the application are respectfully requested in view of the amendments and remarks herewith, which place the application into condition for allowance. The present amendment is being made to facilitate prosecution of the application.

I. STATUS OF THE CLAIMS AND FORMAL MATTERS

Claims 1-22 are currently pending. Claims 1, 8, 13, 19 and 21 are independent. Claims 1, 8, 13, 19 and 21 have been amended in this response. No new matter has been introduced by this amendment. Changes to claims are not made for the purpose of patentability within the meaning of 35 U.S.C. §101, §102, §103, or §112. Rather, these changes are made simply for clarification and to round out the scope of protection to which Applicants are entitled.

II. CLAIM OBJECTIONS

Claims 1, 8, 13, 19 and 21 were objected to because of the use of the phrase "may be". Claims 1, 8, 13, 19 and 21 are hereby amended, obviating the objection.

III. REJECTIONS UNDER 35 U.S.C. §102(e)

Claims 1-22 were rejected under 35 U.S.C. §102(e) as allegedly anticipated by U.S. Patent No. 5,959,945 to Kleiman (hereinafter, merely "Kleiman").

Claim 1 recites, *inter alia*:

"A business management method comprising the steps of:

obtaining information about earnings and expenses based
on expenses incurred by content providers supplying users with

U.S. Patent Application. No. 09/829,573
Reply to Office Action dated February 06, 2006

PATENT
450100-03152

recording devices compatible with contents offered by the providers, on content subscription fees paid by said users for receiving said contents, and on earnings derived from services and/or advertisements included in said contents ... judging whether a share of the earnings can possibly be paid back; and

initiating a process to decide on items applicable to pay back when that pay back is judged possible." (emphasis added)

As understood by the applicants, Kleiman relates to an apparatus for distributing music to local electronic jukeboxes with a menuing system stored in a central storage location. A jukebox selectively requests the transmission of songs from the central storage location using a variety of communication means based upon usage data with respect to songs and the menu. The request is initiated by the jukebox and can occur automatically based on statistics compiled by the jukebox representing user demand. The central storage location processes the requests and schedules individual requests from each jukebox to coordinate transmission of music to multiple locations simultaneously.

Applicants submit that Kleiman does not teach or suggest the above identified features of claim 1. Specifically, Applicants submit that Kleiman does not teach or suggest a business management method comprising the steps of obtaining information about earnings and expenses based on expenses incurred by content providers, as recited in claim 1. Similarly, Kleiman fails to teach or suggest controlling fees to be paid for said services and/or said advertisements in accordance with said information about said earnings and expenses thus obtained; judging whether a share of the earnings can be paid back; and initiating a process to decide on items applicable to pay back when that pay back is judged possible, as recited in claim 1.

U.S. Patent Application No. 09/829,573
Reply to Office Action dated February 06, 2006

PATENT
450100-03152

Therefore, Applicants submit that claim 1 is patentable. For reasons similar to or somewhat similar to those described above with regard to independent claim 1, independent claims 8, 13, 19, and 21 are also believed to be patentable.

IV. DEPENDENT CLAIMS

The other claims are dependent from the independent claims, discussed above, and are therefore believed patentable for at least the same reasons. Since each dependent claim is also deemed to define an additional aspect of the invention, however, the individual reconsideration of the patentability of each on its own merits is respectfully requested.

CONCLUSION

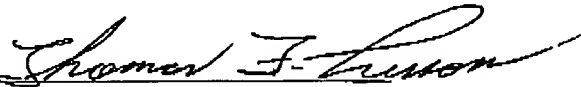
In the event the Examiner disagrees with any of statements appearing above with respect to the disclosure in the cited reference, it is respectfully requested that the Examiner specifically indicate those portions of the reference, providing the basis for a contrary view.

Please charge any additional fees that may be needed, and credit any overpayment, to our Deposit Account No. 50-0320.

In view of the foregoing amendments and remarks, it is believed that all of the claims in this application are in condition for allowance and Applicants respectfully request early passage to issue of the present application.

Respectfully submitted,

FROMMER LAWRENCE & HAUG LLP
Attorneys for Applicants

By 
Thomas F. Presson
Reg. No. 41,442
(212) 588-0800